



PTO/SB/26 (09-04)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)  
112020.146 US2 (NAN-22)

In re Application of: Thomas Rueckes et al.

Application No.: 10/810963-Conf. #9816

Filed: March 26, 2004

For: NON-VOLATILE RAM CELL AND ARRAY USING NANOTUBE SWITCH POSITION FOR  
INFORMATION STATE

The owner\*, Nantero, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 6,944,054 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

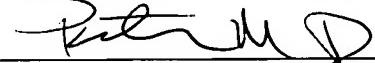
expires for failure to pay a maintenance fee;  
is held unenforceable;  
is found invalid by a court of competent jurisdiction;  
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;  
has all claims canceled by a reexamination certificate;  
is reissued; or  
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. 38,005

  
Signature \_\_\_\_\_ Date January 27, 2006

Peter M. Dichiara  
Typed or printed name

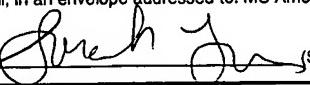
(617) 526-6000  
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 27, 2006

Signature: 

(Sarah Farris)

01/31/2006 SSESHE1 00000030 080219 10810963  
01 FC:2814 65.00 DA



PTO/SB/17 (12-04v2)

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**Effective on 12/08/2004.****Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**

## FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

<b>TOTAL AMOUNT OF PAYMENT</b>	<b>(\\$) 65.00</b>
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<b>Complete if Known</b>	
Application Number	10/810963-Conf. #9816
Filing Date	March 26, 2004
First Named Inventor	Thomas Rueckes
Examiner Name	D. T. Nguyen
Art Unit	2824
Attorney Docket No.	112020.146 US2 (NAN-22)

### METHOD OF PAYMENT (check all that apply)

Check     Credit Card     Money Order     None     Other (please identify): \_\_\_\_\_  
 Deposit Account    Deposit Account Number: 08-0219    Deposit Account Name: Wilmer Cutler Pickering Hale and Dorr LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below     Charge fee(s) indicated below, except for the filing fee  
 Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17     Credit any overpayments

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

<b>Application Type</b>	<b>FILING FEES</b>		<b>SEARCH FEES</b>		<b>EXAMINATION FEES</b>		<b>Fees Paid (\$)</b>
	<b>Fee (\$)</b>	<b>Small Entity Fee (\$)</b>	<b>Fee (\$)</b>	<b>Small Entity Fee (\$)</b>	<b>Fee (\$)</b>	<b>Small Entity Fee (\$)</b>	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 (including Reissues)

<b>Fee (\$)</b>	<b>Small Entity Fee (\$)</b>
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50      25

Each independent claim over 3 (including Reissues)

200      100

Multiple dependent claims

360      180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
_____	_____	_____	_____

<b>Multiple Dependent Claims</b>	
<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
_____	_____

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
_____	_____	_____	_____

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
_____	- 100 = _____	/50 _____ (round up to a whole number) x _____ = _____	_____	_____

**Fees Paid (\$)**

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 2814 Statutory Disclaimer 65.00

<b>SUBMITTED BY</b>		<b>Registration No. (Attorney/Agent)</b>	<b>Telephone</b>
Signature		38,005	(617) 526-6000
Name (Print/Type)	Peter M. Dichiara	Date	January 27, 2006

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 27, 2006

Signature: (Sarah Farris)